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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,411	03/13/2000	Joseph C. Tyler	VSSI-0002	6146
23550	7590	11/10/2003	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC 3 E-COMM SQUARE ALBANY, NY 12207			VIG, NARESH	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/524,411	TYLER, JOSEPH C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Naresh Vig	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 14 August 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

This is in reference to response received on 14 August 2003 to the office action mailed on 28 July 2003. Amendments to claims 1, 13, 17, 21 and 26 are acknowledged and considered. There are 29 claims, claims 1 – 29 pending for examination.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4 – 7, 9 and 13, 14, 16 – 18 and 20 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishan et al. US Patent 6,442,529 hereinafter known as Krishan in view of Pointcast.com hereinafter known as Pointcast.

Regarding claims 1, 13 – 14, 17, 21 – 24, Krishan discloses system and method to provide advertising and informational content directly to their user's desktops [col. 3, lines 29 – 32].

The server computer also may determine how to target ads, and collect information such as how many users have received any given ad, how many times any given ad has been viewed, or any other information that may be useful in targeting ads, billing advertisers and paying ISPs for access to users (collecting user data) [col. 7, lines 59 – 64].

Krishan discloses having database for storing the information [Mini Portal Database, cols. 10 – 12]. Krishan does not disclose user subscribing to websites. However, Krishan discloses that ISP pointer field 44 identifies the ISP with which the user is associated (user subscribed to a website). PointCast discloses PointCast discloses an electronic publishing system comprising a data collection interface for collecting user data from users of a plurality of websites [page 8]; PointCast discloses to allow a publisher for each website to create a message specification associated with the publisher's website [page 23]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have user subscribe to a

website to be able to make the advertisement more effective by sending incentives or messages to customers who are interested in receiving.

ISP 24 sells advertisers 26 access to the messages that are displayed on the screens of users 22 (publisher interface) while users 22 are connecting to the Internet, or during other idle times. Under the model shown in FIG. 1A, ISP 24 provides the messages to be displayed to portal provider 20 (a mechanism for inputting information), which then uses its server-side software to push the advertisements, as well as other messages that ISP 24 wishes to display, to the computers of users 22 [col. 7, lines 6 – 16]. This validation mechanism optionally gives the portal provider an ongoing role in providing advertisements to the users, and in targeting advertisements (a mechanism for designating a recipient criteria) [col. 4, lines 15 – 18].

Krishan does not disclose selection a template. However, Krishan disclose plurality of templates to display messages [Fig. 9]. PointCast discloses plurality of templates [page 2] and templates displaying information for different sources [page 2]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to offer selection of templates from a plurality of templates to have variable pricing for displaying advertisements and charging customers based upon the location selected to display the advertisement.

Neither Krishan nor PointCast disclose establishing a delivery time. Brown discloses targeting system and method that is both interactive and intelligent. Rule developers can create profiles of subscribers, content segments, and content locations; and can create definitions of specific time periods that may be important in

targeting content segments to subscribers [col. 3, lines 50 – 62]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to establish delivery time to be able to have variable pricing for displaying advertisements.

Krishan discloses to access a server and generates a message for delivery to a targeted group of users of each website based on the message specification created by the publisher for each website [Fig. 6B].

Regarding claim 4 – 5, Krishan discloses information to comprise story content. Advertisement etc [Fig. 7 – 9].

Regarding claims 6, 18, Krishan disclose advertisements with story content and for determining specific users that will receive message. Steve disclose specific users getting specific advertisement [Fig. 6A – 6B].

Krishan discloses messages in selected templates [Fig. 7 – 9].

Krishan discloses delivering messages [Fig. 6 – 8]. Krishan does not disclose to deliver messages at the established delivery time. Brown discloses that rule developers can create profiles of subscribers, content segments, and content

locations; and can create definitions of specific time periods that may be important in targeting content segments to subscribers [col. 3, lines 50 – 62]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to establish delivery time to be able to have variable pricing for displaying advertisements.

Regarding claim 7, Krishan discloses advertisers 26 also may pay portal provider 20 for data collected on users 22 that may permit advertisers 26 to better target their advertisements (publisher/advertiser query the data collected to determine effectiveness of the marketing campaign).

Regarding claims 9, 16, 20, 25, Krishan disclose each template is customizable.

Regarding claims 26 – 28, Krishan discloses system and method for electronically publishing information.

Krishan discloses that as shown in FIG. 9, windows containing compound messages also may be displayed. Compound message window 70 comprises numerous frames, each of which contains a message. For example, frame 72 may

contain a community announcement or local news story, provided for free by an ISP or by the portal provider. Frame 73 may contain announcements or advertising from the user's ISP, while frame 74 displays a logo for the ISP. Frames 75, 76, 77, and 78 may each contain advertisements, each from a different advertiser and may each be controlled by a different entity. Thus, an ISP may have sold the space in frames 75 and 76, while the portal provider may have sold the space in frames 77 and 78. Finally, frame 79 may contain the logo for the portal provider [col. 20, lines 28 – 41]. (content provider accessing a detail window to designate message details, accessing a window to input the information).

Krishan discloses ISP 24 sells advertisers 26 access to the messages that are displayed on the screens of users 22 (publisher interface) while users 22 are connecting to the Internet, or during other idle times. Under the model shown in FIG. 1A, ISP 24 provides the messages to be displayed to portal provider 20 (a mechanism for inputting information), which then uses its server-side software to push the advertisements, as well as other messages that ISP 24 wishes to display, to the computers of users 22 [col. 7, lines 6 – 16]. This validation mechanism optionally gives the portal provider an ongoing role in providing advertisements to the users, and in targeting advertisements (a mechanism for designating a recipient criteria) [col. 4, lines 15 – 18].

Krishan does not discloses selection a template. However, Krishan disclose plurality of templates to display messages [Fig. 9]. PointCast discloses plurality of templates [page 2] and templates displaying information for different sources [page 2].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to offer selection of templates from a plurality of templates to have variable pricing for displaying advertisements and charging customers based upon the location selected to display the advertisement.

Neither Krishan nor PointCast disclose establishing a delivery time. Brown discloses targeting system and method that is both interactive and intelligent. Rule developers can create profiles of subscribers, content segments, and content locations; and can create definitions of specific time periods that may be important in targeting content segments to subscribers [col. 3, lines 50 – 62]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to establish delivery time to be able to have variable pricing for displaying advertisements.

Krishan does not disclose a title for the information. PointCast disclose title for the information [page 13]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have title for information to draw user's attention.

Regarding claim 29, Krishan discloses that as shown in FIG. 9, windows containing compound messages also may be displayed. Compound message window 70 comprises numerous frames, each of which contains a message. For example, frame 72 may contain a community announcement or local news story, provided for

free by an ISP or by the portal provider. Frame 73 may contain announcements or advertising from the user's ISP, while frame 74 displays a logo for the ISP. Frames 75, 76, 77, and 78 may each contain advertisements, each from a different advertiser and may each be controlled by a different entity. Thus, an ISP may have sold the space in frames 75 and 76, while the portal provider may have sold the space in frames 77 and 78. Finally, frame 79 may contain the logo for the portal provider [col. 20, lines 28 – 41].

Claims 2 – 3, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishan et al. US Patent 6,442,529 hereinafter known as Krishan in view of Pointcast.com hereinafter known as PointCast, and further in view of Eldering US Patent 6,216,129.

Regarding claims 2 – 3, 15, 19, Krishan does not disclose user data to include demographic information. Eldering discloses that one advantage of the present invention is that discretionary target market parameters can be specified and do not necessarily need to correspond to an existing market, but can reflect the various market segments for which the advertisement is targeted. The market segments can be designated by demographic characteristics or by product preferences. Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to include demographic information advertise to discretionary target market.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishan et al. US Patent 6,442,529 hereinafter known as Krishan in view of Pointcast.com hereinafter known as PointCast, and further in view of Paramount's Kings Island hereinafter known as Paramount.

Regarding claim 8, Krishan disclose that as shown in FIG. 9, windows containing compound messages also may be displayed. Compound message window 70 comprises numerous frames, each of which contains a message. For example, frame 72 may contain a community announcement or local news story, provided for free by an ISP or by the portal provider. Frame 73 may contain announcements or advertising from the user's ISP, while frame 74 displays a logo for the ISP. Frames 75, 76, 77, and 78 may each contain advertisements, each from a different advertisers and may each be controlled by a different entity. Thus, an ISP may have sold the space in frames 75 and 76, while the portal provider may have sold the space in frames 77 and 78. Finally, frame 79 may contain the logo for the portal provider [col. 20, lines 28 – 41]. Krishan does disclose contents of the templates. Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the

invention was made that it is a business choice to decide what contents to display on the display window. PointCast discloses to display news, streaming video etc on its display window [page 2]. PointCast discloses that business can customize the contents. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display the contents as business determines to display to meet its business objectives.

Both Krishan and PointCast do not disclose to include map and calendar. Paramount discloses to display map [page 3] to show customers the layout of their theme park and rides available at the theme park and calendar to inform customers about the park operating schedule [page 4]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display the contents like map and calendar as business determines to display to meet its business objectives like informing people about specials, layout of the place the advertisement wants a customer to visit, operational hours etc.

Claims 10 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishan et al. US Patent 6,442,529 hereinafter known as Krishan in view of Pointcast.com hereinafter known as PointCast, and further in view of Hystercity.com hereinafter known as HysterCity.

Regarding claim 10, Krishan does not discloses a mechanism for choosing from a plurality of delivery modes. HysterCity discloses system and method for choosing from a plurality of delivery modes [page 2]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow users to select deliver modes to suit user's personal needs.

Regarding claim 11, Krishan does not discloses delivery modes include electronic messaging, facsimile, and wireless communication. HysterCity discloses delivery modes to include individual e-mails, read it on the web only method etc. Both Krishan and HysterCity do not disclose delivery modes to include facsimile and wireless communication. Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice to elect what delivery modes (e-mail, fax, postal mail, news papers etc.) to implement to deliver contents, and, connectivity to the internet can be terrestrial network or wireless network. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include alternate delivery modes like facsimile and wireless to meet user's personal needs.

Regarding claim 12, Krishan does not disclose un-subscribing users, wherein un-subscribed users will not receive the message. HysterCity discloses to un-

subscribe users. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow users to un-subscribe to allow the users to stop receiving messages when the user decides to do so.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### **1. Information on 1stUP.com**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

October 29, 2003  
Naresh Vig

*Naresh Vig*  
JOHN G. WEISS  
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